

REMARKS/ARGUMENTS

Claims 1-15 are pending in the present application. Claims 1-6 have been rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 1-15 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,418,447 to Ziolk, (hereinafter "Ziolk"). In response Applicant has amended claim 1 and claim 7. Applicant believes the amendments are fully supported by the original specification, therefore no new matter has been added. Applicant further believes the amendments place claims 1-15 in proper form for allowance and therefore Applicant respectfully requests allowance of said claims.

Rejection of Claims 1-6 Under 35 U.S.C. § 112:

Claims 1-6 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In response, claim 1 has been amended replacing "in the opposite direction" with "apart from each other". Antecedent basis for this amendment can be found in U.S. 2007/90281597 A1 Paragraph 0023. Consequently, Applicant believes the rejection has been overcome.

Rejection of Claim 1 Under 35 U.S.C. § 102(b):

Independent claim 1 has been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 4,418,447 to Ziolk. The Applicant respectfully disagrees with this rejection and offers the following:

Amended claim 1 requires:

"C) moving at least two pressing members forming part of the separating element toward each other with a first movement such that the sausage strand is constricted locally,

D) moving the pressing members apart from each other, and

E) moving at least two cutting members forming part of the same separating element toward each other such that the sausage strand is separated at the position of the sausage strand constricted locally during processing step C)."

Ziolko does not teach limitations C, D and E. In contrast, Ziolko teaches, as best shown in Figs. 4-7, that surfaces 61 and 62 on separate arms move toward and apart from each other as the cutting surfaces also move toward and apart from each other. Because Ziolko does not teach (1) moving pressing members toward each other; (2) then moving the pressing members apart from each other; and finally moving the cutting members toward each other as is required by claims 1-6, these claims cannot be anticipated by Ziolko.

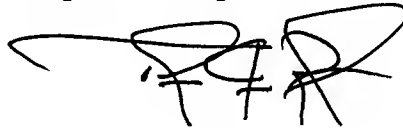
Similarly, claim 7 requires that the cutting members are moved toward each other as the pressing members are moved apart from each other. For the same reasons mentioned above, Ziolko does not teach this and therefore cannot anticipate claims 7-15.

CONCLUSION

In view of the above remarks and arguments, Applicant believes that claims 1-15 are in condition for allowance and Applicant respectfully requests allowance of such claims.

If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515/558-0200. All fees or extensions of time believed to be due in connection with this response are attached hereto; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-2098.

Respectfully submitted,



Timothy J. Zarley
Reg. No. 45,253
ZARLEY LAW FIRM, P.L.C
Capital Square
400 Locust Street, Suite 200
Des Moines, IA 50309-2350
Phone No. (515) 558-0200
Fax No. (515) 558-7790
Customer No. 34082
Attorneys of Record

- TJZ/CAP/jlk -

Attachment: Copy of International Preliminary Report on Patentability from PCT

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

Reference is made to the following document:

D1: US-A-4418447

The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and discloses, see the whole document and particularly col. 5, line 47, to col 7, line 35, a method for phased separation of a sausage strand, comprising the processing steps of:

- A) supplying a sausage strand,
- B) positioning the sausage strand relative to a separating element,
- C) moving at least two pressing members (34) forming part of the separating element toward each other with a first movement such that the sausage strand is constricted locally,
- E) moving at least two cutting members (56) forming part of the same separating element toward each other such that the sausage strand is separated at the position of the sausage strand constricted locally during processing step C).

The subject-matter of claim 1 differs from this known method in that between steps C) and E) the pressing members 34 are moved apart.

The subject-matter of claim 1 is therefore new (Article 33(2) PCT).

The prior published documents, cited in the description or in the international search report, either taken individually or in combination do not disclose, suggest or reasonably lead the person skilled in the art to consider moving the pressing members (34) apart during a processing step D) between steps C) and E).

The person skilled in the art would not be able to combine all the features of claim 1 and as such arrive at the claimed method without an inventive activity.

Moreover, claims 2 to 6 are dependent on claim 1, and thus all the claims 1 to 6 satisfy the requirements of Article 33(2)(3) PCT.